



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

March 17, 2010

Memorandum for: Deputy Commissioner, Trials  
Cc: Chief of Personnel  
  
Re: **Police Officer Kevin Soogrim**  
Tax Registry No. 933302  
VIPER - 11  
Disciplinary Case No. 82581/07

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on January 28, 2009 and was charged with the following:

**DISCIPLINARY CASE NO. 82581/07**

1. Said Police Officer Kevin Soogrim, assigned to Police Service Area #3, while off-duty, on or about December 7, 2006, at a location known to this Department, in ██████████ County, did intentionally place or attempt to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm, to wit: said Officer displayed his off-duty firearm during a traffic dispute and verbally taunted two (2) individuals known to the Department.

**PG 203-10, Page 1, Paragraph 5**  
**NYS Penal Law 120.14(1)**

**GENERAL REGULATIONS**  
**MENACING IN THE SECOND DEGREE**

2. Said Police Officer Kevin Soogrim, assigned to Police Service Area #3, while off-duty, on or about December 7, 2006, at a location known to this Department, in ██████████ County, with intent to harass, annoy or alarm another person he did strike, shove, kick or otherwise subject such other person to physical contact, or attempted to threaten to do the same, to wit: said Officer, while displaying his off-duty firearm, verbally taunted two (2) individuals, known to the Department.

**PG 203-10, Page 1, Paragraph 5**  
**NYS Penal Law 240.26(1)**

**GENERAL REGULATIONS**  
**HARASSMENT IN THE SECOND DEGREE**

In a Memorandum dated June 16, 2009, Assistant Deputy Commissioner DePeyster found Respondent Soogrim GUILTY of Specification Nos. 1 and 2. Having read the Memorandum and analyzed the entire facts of this instant matter, I approve the findings, but disapprove the recommended penalty of summary dismissal from the Department.

The disciplinary penalty for this matter shall consist of the forfeiture of 30 Vacation days, PLUS One-Year Dismissal Probation, PLUS the forfeiture of all

suspension without pay days previously served, PLUS the forfeiture of all time/benefits while on suspended-with-pay status, PLUS Respondent Soogrim is to be restored to Modified Assignment and is to remain on such status until the expiration date of the prevailing Order of Protection, whereupon the Chief of Personnel/Suspended/Modified Review Board is directed to verify that the Order has, in-fact expired, with no further action to be taken against the Respondent, prior to conducting any review to return the Respondent to Full-Duty.



Raymond W. Kelly  
Police Commissioner



POLICE DEPARTMENT

June 16, 2009

-----X  
In the Matter of the Charges and Specifications : Case No.82581/07  
- against - :  
Police Officer Kevin Soogrim  
Tax Registry No. 933302 :  
VIPER Unit No. 11 :  
-----X

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable Claudia Daniels-DePeyster  
Assistant Deputy Commissioner - Trials

APPEARANCE:

For the Department: Penny Bluford-Garrett, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: John Tynan, Esq.  
Worth, Longworth & London, LLP  
111 John Street, Suite 640  
New York, NY 10038

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

COURTESY • PROFESSIONALISM • RESPECT

The above-named member of the Department appeared before me on January 28, 2009, and February 13, 2009, charged with the following:

1. Said Police Officer Kevin Soogrim, assigned to Police Service Area #3, while off-duty, on or about December 7, 2006, at a location known to this Department, in ██████ County, did intentionally place or attempt to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm, to wit: said Officer displayed his off-duty firearm during a traffic dispute and verbally taunted two (2) individuals known to the Department.

PG 203-10 – Page 1, Paragraph 5 – GENERAL REGULATIONS  
NYS Penal Law § 120.14(1) – MENACING IN THE SECOND DEGREE

2. Said Police Officer Kevin Soogrim, assigned to Police Service Area #3, while off-duty, on or about December 7, 2006, at a location known to this Department, in ██████ County, with intent to harass, annoy or alarm another person he did strike, shove, kick or otherwise subject such other person to physical contact, or attempted to threaten to do the same, to wit: said Officer, while displaying his off-duty firearm, verbally taunted two (2) individuals, known to the Department.

PG 203-10 – Page 1, Paragraph 5 – GENERAL REGULATIONS  
NYS Penal Law § 240.26(1) – HARASSMENT IN THE SECOND DEGREE

The Department was represented by Penny Bluford-Garrett, Department Advocate's Office, and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

The Respondent is found Guilty of Specification Nos. 1 and 2.



## SUMMARY OF EVIDENCE PRESENTED

### The Department's Case

The Department called Sergeant Thomas Mangi and Police Officer Morsal Betts. Offered into evidence was a copy of a 911 call on a compact disc, Department's Exhibit ("DX") 1, a certified copy of a Certificate of Disposition from the Queens Criminal Court, (DX 2), two copies of Orders of Protection, (DX 3A and 3B), and an assortment of arrest and complaint paperwork pertaining to the Respondent's arrest, (DX 4A and 4B).

### Sergeant Thomas Mangi

Mangi is an 18-and-a-half-year member of the Department assigned to the Housing Bureau Investigations Unit. He investigates cases of misconduct against members of the service. Mangi said that he was assigned to investigate a case against the Respondent and to monitor his court proceedings.

Mangi testified that he went to the Queens North Investigations Unit and obtained the "call out" package pertaining to the Respondent's case. He explained that this consisted of documents of interviews and paperwork from the initial investigation that had already been completed by the prior investigative unit. In reviewing that package, Mangi determined that interviews had been conducted of the complainant, [REDACTED] as well as [REDACTED], Lieutenant DePetry, Sergeant Joseph Hoel, and Officers Betts and Weber. The package also contained two photo arrays, which had been shown to [REDACTED] and [REDACTED], from which they identified the Respondent as the individual they had a dispute with. Additionally, Mangi found that the file had a copy of

“the initial 49<sup>1</sup>,” and a “SPRINT”<sup>2</sup> report. During his investigation, he requested a copy of the relevant 911 call and radio transmissions.

In reviewing the 911 call regarding the Respondent’s case, Mangi testified that a male called 911, identified himself as [REDACTED], and said that a “male in a white BMW had pulled a firearm on him at the intersection of 118<sup>th</sup> Street and Liberty Avenue.” After reviewing a June 4 worksheet to refresh his recollection, Mangi corrected himself, indicating that the 911 call revealed that a male complainant, [REDACTED], reported that a male in a white BMW “pulled a firearm” at 118<sup>th</sup> Street and Liberty Avenue and fled the scene. After further reviewing his notes, Mangi testified that a license plate of the white BMW was provided after the police arrived at the scene to meet the complainant. He noted that the license plate was [REDACTED]. The radio transmission revealed that the responding officers transmitted the plate over the police radio—“ran the plate”—and learned that the white BMW was registered to the Respondent.

Mangi said that he performed a Department of Motor Vehicles check during his investigation, in addition to a “PEPR”<sup>3</sup> check. He determined that the license plate of the white BMW matched the Respondent’s address as listed on his PEPR report, [REDACTED]. It was also the same license plate that was “sent over and transmitted over [the police radio].” Thereafter, he concluded that the white BMW identified by the complainant to the initial officer at the scene who responded to the 911 call was registered to the Respondent.

The Respondent’s court appearances were monitored by Mangi. At a bench trial before Judge McGann in Queens Criminal Court, the Respondent was found guilty of

---

<sup>1</sup> A 49 is an official Department memorandum.

<sup>2</sup> An acronym for Special Police Radio Inquiry Network, the Department’s computerized dispatching system.

<sup>3</sup> An acronym for the Department’s Personnel Profile computer database.

menacing in the second degree and harassment. He was sentenced to a one year conditional discharge with a three year order of protection involving [REDACTED] and [REDACTED]. Mangi believed that these orders expire on August 3, 2011. Mangi also personally obtained a Certificate of Disposition relative to the Respondent's criminal matter. He identified DX 2 as the certified Certificate of Disposition that he obtained. He also obtained two Orders of Protection, (DX 3A and 3B), as orders of protection for [REDACTED] and [REDACTED]. These orders mandate that the Respondent stay away from [REDACTED] and [REDACTED] and he is also barred from possessing a firearm for the duration of the orders. The orders were effective as of August 4, 2008.

Mangi affirmed that he reviewed the interviews of [REDACTED] and [REDACTED], which were conducted by the Queens North Investigations Unit. He noted that the interviews are reflective of the 911 call, and explained that during the call, [REDACTED] stated a male in a white BMW "pulled a firearm" at 118<sup>th</sup> Street and Liberty Avenue. Similarly, he indicated that [REDACTED] stated in his interview that the Respondent had his firearm "out." Mangi "honestly [did not] recall" if there were any discrepancies in [REDACTED]'s interview as to whether the Respondent "pulled [his] firearm" or "displayed it" to him.

An Official Department Interview of the Respondent regarding the incident was eventually conducted by Mangi. He said that he advised him of the relevant Patrol Guide portions, namely, § 203-08 and § 206-13. Mangi recalled that toward the end of the interview, the Respondent stated that he could not understand how he was found guilty at his criminal trial. The Respondent claimed that there were inconsistencies in witness testimony at trial compared to prior statements made at court hearings. Additionally, the Respondent alleged that Bisnauth claimed in court that the only reason he mentioned a firearm in his 911 call was to "make the police come faster." After reviewing a transcript

of the Respondent's Official Department Interview to refresh his recollection, Mangi clarified that the discrepancy identified by the Respondent concerned [REDACTED]'s claim on his 911 call that the Respondent "pulled out a firearm and was waving it" contrasted with his testimony at trial, that the Respondent "...didn't have the gun."

When asked if he took any steps to rectify what the Respondent claimed was an inconsistency, Mangi said that the initial interviews of the complainants occurred when the incident was "fresh in their memories" and that it reflected that the Respondent "...pulled a firearm, a firearm was observed." He advised the Respondent to address the inconsistent testimony with the Appellate Division because there was nothing that he could do regarding the Criminal Court proceeding. Mangi was asked if it was clarified during the Respondent's criminal trial whether [REDACTED] testified if a gun was "displayed or waved." He replied, "That I don't know. I don't know." He did not know the reason why [REDACTED] mentioned a gun on the 911 call.

Mangi testified that the evening of the incident, the Respondent was arrested and suspended from duty. Subsequently, the Respondent was placed on modified duty and transferred to a VIPER unit. The investigation of the incident was substantiated regarding the Respondent's arrest for menacing and the traffic dispute.

On cross-examination, Mangi indicated that he never personally interviewed [REDACTED] or [REDACTED]. He did not speak to the lieutenant who conducted the questioning on the night of the incident. He did not personally conduct Official Department Interviews of Officers Morsal, Betts or Weber. Similarly, he did not interview any of the individuals involved in the initial call.

Mangi affirmed that he monitored the Respondent's court appearances, but said that he was not present for the proceedings. He claimed that he was kept apprised of the



proceedings by keeping in “constant contact” with Assistant District Attorney (ADA) Weiss. Mangi reiterated that during the Respondent’s Official Department Interview, he claimed that [REDACTED]’s testimony differed from what he reported during his 911 call and in his initial interview. That is, [REDACTED] initially claimed that the Respondent “waved his gun” but his trial testimony was absent of this. Further, the Respondent claimed that [REDACTED] admitted on the stand that the Respondent did not wave the gun and that he believed that he would receive a quicker response from the police if he said a gun was waved. Mangi never reviewed the criminal trial transcript and never advised ADA Weiss of this.

On redirect examination, Mangi reiterated that he advised the Respondent to appeal his criminal conviction to the Appellate Division.

During further cross examination, Mangi said that it was not necessary for him to evaluate [REDACTED]’s credibility because the Respondent had already been convicted by a criminal court judge. Additionally, he never contacted the complainant after the Respondent’s Official Department Interview.

Upon inquiry from the Court, Mangi testified that during [REDACTED]’s 911 call, he claimed that a “gun was pulled out on him.” The radio transmission said “the perp displayed a black gun at the complainant.”

#### Police Officer Morsel Betts

Betts is an almost-16-year member of the Department assigned to the 106 Precinct. He performs primarily patrol duties and has been assigned there for the entirety of his career.

Betts affirmed that he was working on December 7, 2006, from 3:00 pm to 11:35 pm. At about 6:15 pm on that day, he recalled that he responded to a "radio run" involving a firearm at 118 Street and Liberty Avenue. Upon meeting the complainant, he advised Betts that a male in a white BMW said to him, "I'll shoot you" while displaying a firearm. He recollected that the complainant's name was [REDACTED]. Betts subsequently broadcasted a description of the incident and the white BMW over the police radio. He also used the computer in his patrol car to conduct a DMV inquiry of the license plate of the BMW and received information that the car was registered to the Respondent at a [REDACTED] address. Betts indicated that he was working with a partner that day and was the recorder. He drafted a complaint report ("61") for the incident and reported to the stationhouse with the complainant. Betts testified that the complaint report was prepared in close proximity to when the incident occurred. He identified the "online worksheet" and the "scratch 61" that he drafted (DX 4A, and 4B).

When asked to examine the bottom of the complaint report that he drafted, Betts recalled writing the narrative in the "description" portion of the form. He read the portion of this document into the record:

Complainant states that [at] TPO (time and place of occurrence) unknown perp displayed black firearm during dispute over parking space, and told complainant, I will shoot you. Perp fled the scene southbound on 118<sup>th</sup> Street in a white BMW, New York license plate [REDACTED], canvas negative result[s]. Patrol supervisor Hoel on scene."

Betts stated that he testified at the Respondent's criminal trial.

During cross-examination, Betts testified that when he spoke to the complainant at 118 Street and Liberty Avenue, he never mentioned that the Respondent pointed a gun at him. He could not recall with specificity what the complainant told him aside from the fact that the Respondent "displayed a weapon." He was not sure of the details, and

reiterated that all he was told was that a black firearm was “displayed.” Betts said that he has never seen the Respondent except at the stationhouse the evening of the incident, at the criminal court proceeding and in the Trial Room. He did not have any contact with him the night of the incident.

### The Respondent’s Case

The Respondent testified in his own behalf.

### The Respondent

The Respondent has been a member of the Department since July of 2003. In December of 2006, he was assigned to Police Service Area 3 located in Bushwick, Brooklyn.

The Respondent recalled that on December 7, 2006, he was working from 7:00 am to 3:35 pm. At the end of his shift, he left work and drove home in a white BMW. About an hour after arriving home, the Respondent left his house to run some errands. He went to a food market at 118 Street and Liberty Avenue in South Richmond Hill, an area that he frequents often. He described the intersection as a busy commercial area with a lot of pedestrian traffic. Upon arriving at the intersection at around 6:00 pm, the Respondent said he began to look for a place to park on the street because the food market does not have a parking lot. Accordingly, he double parked until a spot became available. After waiting for about two minutes, the Respondent moved his car to allow another car to vacate a parking spot at the southeast corner of 118 Street. The Respondent intended to park in this spot.

The Respondent recalled that December 7 was a warm day and his "black bubble jacket," a sleeveless vest, was in the trunk of his car. He was wearing a t-shirt and had his firearm with him, a black Glock contained in a "pancake holster." The Respondent described this holster as one which holds the gun inside the waistband and clips onto a belt. He demonstrated for the Court where his gun was holstered that day.

After the other car left the parking spot that the Respondent intended to park in, he began to back his car into the spot when the "sensors on [his] rear bumper went off." He explained that his car was equipped with a parking sensor system in the bumper to alert him if other cars were close behind him. He said that he braked, turned his head and looked behind him and noticed a minivan "right up against my bumper." Part of his vehicle and part of the minivan was in the parking spot. Thereafter, the Respondent lowered his driver side window and pointed his index finger to indicate to the other driver that he was parking in the spot. In response, the other driver yelled out to him to find another spot.

When the other driver did not back out of the spot, the Respondent testified that he moved his car up, parallel parked next to another car, and exited his car. He said that he retrieved his jacket from the trunk, put it on and walked over to the front of the other driver's car. He did not remove anything else from his trunk and his firearm was in his holster. The shirt that he previously said he was wearing was tucked in and before putting his jacket on, nothing was covering the firearm holster. He reiterated that the holster that he had goes "inside of the pants" leaving the "butt of the handle" of the gun exposed above the belt line. The Respondent did not button his jacket when he put it on.

Upon walking up to the other driver's car, the Respondent noticed a female get out of the passenger side and walk over to his car. He walked over to the driver, a male,



and asked him if he noticed him backing into the parking spot. Before the driver could respond, the Respondent said that the female passenger said, "...you have a nice BMW. Why do you want to park it here?" The Respondent told the woman that the type of car that he had was irrelevant. She went back toward her car and the Respondent claimed that the male driver then loudly said, "...these Cooley people neat [*sic*] get shot up around here." The Respondent noted that the word "Cooley" is a reference to an Indian slave and is considered a derogatory term. In response to the man's comments, the Respondent testified that he threw his hands up in the air, "and I said 'you're going to shoot somebody over a parking space [?]'". Thereafter, the Respondent told the man in a loud tone that he did not have to act like a bitch in front of his girlfriend and told him to take the parking spot.

The Respondent testified that he then left the scene because he did not want the situation to escalate. He claimed that the female passenger in the other car told the man to calm down. He reiterated that the area in which this incident occurred was fairly busy, and it was crowded with both pedestrian and vehicular traffic. Additionally, the intersection is also the last stop of the A subway train. No one came over to the Respondent during the argument and he never heard anyone yelling that he had a gun. The Respondent testified that he never had any need to remove his gun from his holster and he had no contact with the firearm during his encounter with the other driver.

The Respondent said that he never pointed his firearm at anyone during the encounter and never said anything about a gun. He admitted that he took no steps to hide the gun in his waistband and did not pull his shirt over it. Neither the other driver nor his female passenger said anything about a gun. The Respondent testified that the encounter lasted about three to five minutes. He never mentioned that he was a police officer and

while he was in possession of his shield and ID card, contained in his wallet, he did not display it at any time. The Respondent noted that his Department parking plate was on the dashboard of his car.

After he left the scene, the Respondent testified that he went to his fiancé's house. She lives a few blocks from intersection where the incident happened. There, he ate dinner and watched television for about two and a half hours. Subsequently, he got back into his car and drove towards Brooklyn to his brother's house. En route, he was stopped by a marked police car. The officers approached with their guns drawn and the Respondent identified himself as a police officer. He presented his firearm to the officers upon their request to do so. When asked if he had an argument earlier in the day, the Respondent replied affirmatively. He told the officers that he never displayed his firearm. They requested that the Respondent accompany them to the 106 Precinct, where the Respondent was eventually suspended and arrested.

The Respondent was ultimately found guilty of menacing and harassment at a criminal trial. He was sentenced to a conditional discharge for one year and an order of protection for three years. The Respondent asserted that he never intentionally tried to show anyone his firearm. He said it was possible that it could have been seen when he got out of his vehicle but he was not sure. The Respondent said he did not do anything to display his firearm for the purpose of menacing the other driver or his passenger.

During cross-examination, the Respondent agreed that he was the first person to get out of his car. He explained that his reason for doing so was to "talk to the guy to ask him, you know, what was his problem talking like that." He said he had no particular reason to exit his car and did not seek to accomplish anything, he was "just upset." He

agreed that he was upset when he got out of his car to confront the other motorist, specifying that he was upset because the other driver tried to take his parking spot.

The Respondent was asked, "How come you didn't just drive off...based on your experience as a New York City police officer...knowing how these things can turn out...[?]" He replied that he was halfway into the parking spot already and wanted to see if the other driver would move.

The Respondent reiterated that the other driver called him a cooley, a name that he believed to be derogatory. He testified that he did not know what ethnicity the complainants, [REDACTED] and [REDACTED] were until they testified in criminal court where he learned that they were Trinidadian. He said that does not necessarily mean that they are of Indian descent.

When he got out of his car, the Respondent restated that he was attired in a t-shirt and his gun was affixed to his right hip. He described his t-shirt as being fitted and not loose and admitted that it was possible that his gun was visible. The Respondent explained that his shirt was tucked in and the handle of the firearm was "hang[ing] over" his belt. He agreed that he told [REDACTED] that he was acting like a bitch in front of his girlfriend, and stated that he made this remark because he was upset and was responding to [REDACTED] cursing at him. The Respondent said that he was not trying to accomplish anything by making the remark. He agreed that calling a man a bitch in front of his girlfriend is confrontational.

The Respondent testified that the encounter between him [REDACTED] and [REDACTED] lasted about three minutes. During the exchange, he said that he was told to find another parking space. After being told this, the Respondent said that he told the other driver that he was parking in the space. He claimed the man then said, "I don't give a fuck. Go find

another parking spot.” The man’s passenger then told the Respondent that he had a nice BMW and asked why he would want to park it there. The Respondent admitted that he did not go back to his car after [REDACTED] made the statements to him, and further agreed that he felt that [REDACTED] was being disrespectful.

As a result of the incident, the Respondent was arrested. He opted for a bench trial before a judge, where there was an opportunity for the witnesses in the case to be confronted. Ultimately, the Respondent was convicted of menacing and harassment. He acknowledged that orders of protection were issued in favor of [REDACTED] and [REDACTED] for a period of three years.

The Respondent again stated that he went into his trunk after he got out of his car, in order to get his jacket.

On redirect examination, the Respondent said that the driver of the other car, [REDACTED], testified at the criminal trial. He claimed that the Respondent lifted up his shirt to display his firearm. The Respondent noted that at one point, [REDACTED] claimed that the Respondent did not pull out or wave his gun in the air, a statement that differed from what he told the 911 operator. The Respondent explained that [REDACTED] was confronted with what he said during the 911 call, and he claimed that he only said that a gun was being waved in the air in order to get a faster response from the police.

Upon examination by the Court, the Respondent acknowledged that he was carrying a Glock in a “pancake holster.” He claimed that he did not know that his gun would be visible without his jacket on. He said that, “When I drive I like to be comfortable so I didn’t have my jacket on.” The Respondent intended to put his jacket on before going to the vegetable stand. It was “[d]uring the Court session and all of that”



that the Respondent realized that the "butt" of his gun must have been visible to the complainants.

The Respondent said that he is from the Caribbean Islands, but not Trinidad. He believed that the female complainant, [REDACTED], appeared to be from the islands, but he did not believe the male looked like he was. The Respondent affirmed that he has been without firearms since the incident and he is presently on modified duty. When the orders of protection were issued, the Respondent said that the judge did not "state [anything]" with regard to the specifics of the orders.

On continued examination by the Court, the Respondent denied that he ever made any threatening statements to [REDACTED] or [REDACTED]. He claimed that he never said, "I will shoot you," as documented on the "61". He noted that at the criminal trial, both complainants gave conflicting statements as to what occurred.

When recalled to the stand by the Court, the Respondent explained that the Glock that he was carrying was not his service weapon, rather, it was an "off duty" Glock. The Respondent explained that this particular weapon is smaller than the Glock service weapon carried by some members of the Department. He described his holster as one which "has a clip on the top that goes over the handle, so it doesn't pop out... [and]...a part that clips onto the belt..." He clarified that the holster affixes "inside the belt." The Respondent said that his vehicle was a four-door BMW.

FINDINGS AND ANALYSISSpecification Nos. 1 and 2

The Respondent stands charged with menacing in the second degree and harassment in the second degree in that he displayed his off-duty firearm during a traffic dispute and verbally taunted two individuals. The Respondent is found Guilty as charged. To prove the Charges and Specifications in this matter, the Department offered the Certificate of Disposition for the Respondent in which he was convicted of menacing in the second degree and harassment in the second degree in Queens Criminal Court before the Honorable Robert C. McGann. Although neither [REDACTED] nor [REDACTED] came forward in this Court to testify, the Department was able to establish by offering the Certificate of Disposition that the Respondent was convicted of both crimes in criminal court where the burden of proof is beyond a reasonable doubt and a higher standard than what is required at this administrative proceeding.

The Respondent testified that he had his off-duty Glock in a clip on a holster inside of his pants but not covered by his shirt. When he decided to confront [REDACTED], he retrieved his jacket to hide his firearm, but it may have been observed by [REDACTED] sometime when his sleeveless jacket was on but open, or when he raised his arms or even as he exited his vehicle. He denied ever pulling out his weapon during the altercation. The Respondent acknowledged during cross-examination that he was the first one to exit a vehicle. He stated that he did not expect to accomplish anything by getting out of the car. When asked why he did not just drive off knowing that things could escalate, he stated that he hoped the other driver would move his car out of the parking space that he was attempting to park in.

Based on the Respondent's criminal convictions for menacing and harassment, I find him Guilty of Specification Nos. 1 and 2.

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). The Respondent was appointed to the Police Department on July 1, 2003. Information from his personnel record that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

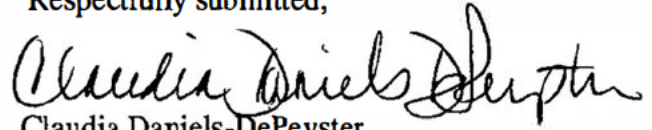
The Respondent has been found Guilty of menacing in the second degree and harassment in the second degree. This is based on his conviction for both following a trial in Queens Criminal Court. In addition to his criminal convictions, Judge McGann sentenced the Respondent to a one-year Conditional Discharge as well as to a three-year Order of Protection in which he specified that the Respondent was not to carry a firearm during the three-year duration of the Order of Protection. (See DX 3A). The Order of Protection is effective until August 2, 2011. The Assistant Department Advocate is seeking termination.

When the incident occurred on December 7, 2006, the Respondent was a two-year member of the Department. He was modified at that time and his firearm was removed. Following the end of the term with respect to the Order of Protection, the Respondent will have been without his firearm for five years.

Based on the directive of the criminal court judge that the Respondent not be permitted to carry a firearm until August 3, 2011, it is clear that the Respondent will not be able to serve the Department as a full duty police officer for an extended period of

time. Based on his convictions, in particular his conviction for menacing in the second degree, a class A misdemeanor, along with the judge's order which reflects concern about his qualifications to possess and carry a firearm, it is unclear whether the Respondent could ever be returned to full duty with the Police Department. Therefore, this Court can only recommend one penalty; that the Respondent be dismissed from his position as a police officer with the New York City Police Department.

Respectfully submitted,



Claudia Daniels-DePeyster  
Assistant Deputy Commissioner-Trials






POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER KEVIN SOOGRIM  
TAX REGISTRY NO. 933302  
DISCIPLINARY CASE NO. 82581/07

The Respondent received ratings of 3.5—"Competent," 4.0—"Highly Competent," and 4.0—"Highly Competent" in his last three annual performance evaluations in 2006, 2007 and 2008 respectively. [REDACTED]

[REDACTED] The Respondent has no prior formal disciplinary history.

For your consideration.

  
Claudia Daniels-DePeyster  
Assistant Deputy Commissioner – Trials